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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,619	02/27/2004	Chang Yi Wang	1151-4165US1	9919
27123	7590	08/24/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			FORD, VANESSA L	
			ART UNIT	PAPER NUMBER
			1645	
DATE MAILED: 08/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/789,619

**Applicant(s)**

WANG, CHANG YI

**Examiner**

Vanessa L. Ford

**Art Unit**

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 52-84 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 52-84 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **ELECTION OF SPECIES**

1. In response to Applicant's remarks, the restriction requirement mailed April 25, 2005 is vacated because of Applicant's preliminary amendment filed February 27, 2004.

2. Upon further consideration and review of Applicant's preliminary amendment filed February 27, 2004 the following election of species is set forth:

This application contains claims directed to the following patentably distinct species of the claimed invention. Claims 52-84 are directed to a method for inducing anti-FAFSD peptide antibody production in a mammal by administering to a mammal a pharmaceutical composition comprising a target peptide immunogen to be examined in the claimed method.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently claim 52-84 are generic. Each formula for the peptide immunogens as well as each component that make up the individual formulas are structurally distinct. There are numerous formulas for the peptide immunogens used in the claimed method as well as numerous species of each individual components that make up each formula. Therefore, election of species is proper.

Applicant is required to elect:

1. One target peptide immunogen formula along with its corresponding SEQ ID NO: See claim 56.

2. After the formula is elected Applicant is required to elect one SEQ ID NO: that corresponds to each of the individual components (e.g. A, FAFSD peptide, B, Th and X) that make up the elected formula. If appropriate, Applicant is required to elected the number of repeats (n, m or o) for the elected component.

For example: (only for illustration purposes)

I. If Applicant elects formula:

$(A)_n-(FAFSD\ peptide)-(B)_o-(Th)_m-X$

II. Applicant must elect a species for component A and number of repeats.

Elected species for A is SEQ ID NO: 72,  $n=2$ .

III. Applicant must elect a species for component FAFSD peptide:

Elected species for FAFSD peptide is SEQ ID: NO:8.

IV. Applicant must elect a species for component B and number of repeats:

Elected a species for B is SEQ ID NO:73,  $o=3$

V. Applicant must elect a species for component Th and number of repeats:

Elected species for Th is SEQ ID NO:9,  $m=1$ .

VI. Applicant must elect a species for component X:

Elected species for X is  $\alpha$ -COOH.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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### ***Conclusion***


3. Any inquiry of the general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Office Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for the Group 1600 is (703) 872-9306.

Any inquiry concerning this communication from the examiner should be directed to Vanessa L. Ford, whose telephone number is (571) 272-0857. The examiner can normally be reached on Monday – Friday from 9:00 AM to 6:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached at (571) 272-0864.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Vanessa L. Ford  
Biotechnology Patent Examiner  
August 17, 2005

  
NITA MURNFIELD  
PRIMARY EXAMINER  
8/18/05